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CHARLES ELMORE

IN THE

Supreme Court of the United States

October Term 1929.

No. 414

THOMAS W. WHITE, COLLECTOR OF INTERNAL REVENUE,

Petitioner,

vs.

HOOD RUBBER COMPANY,

Respondent.

MOTION OF RESPONDENT TO ADVANCE

FRANK S. BRIGHT,
Attorney.

HAROLD C. HASKELL,
Of Counsel.

The Print Craft Shop, Washington, D. C.

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Now comes the respondent, by its counsel, and moves that this case be advanced for argument immediately following the conclusion of the argument in Florsheim Bros. Dry Goods Company, Ltd., v. United States (October Term, 1929, No. 118).

The reason for this motion is that the only two questions in the present case are of general importance and are identically the same as the two principal questions in the Florsheim case (and counsel in that case advise us that it is not their intention to press the other specifications of error in that case). We also believe that the facts are even more fully and completely set forth in the record in the present case.

Each case is a taxpayer's suit for the recovery of income and profits taxes for the same year 1918. In

both cases Forms 1031–T were filed during March of 1919, and "consents in writing" for an extension of the statutory period of limitation (which consents were identical in terms and on the same form prepared by the Government) were filed early in 1924 and within five years after the filing of Form 1031–T. In both cases the issues are whether either the assessment or the collection of the taxes was barred by the statute of limitations. In both cases the two questions to be decided are (1) whether Form 1031–T was "**the** return" within the meaning of the statute, and (2) the construction and effect of the consents in writing in connection with certain new provisions of the subsequently enacted Revenue Act of 1924.

In the Florsheim case this court has granted the taxpayer's petition for certiorari to review a decision of the Circuit Court of Appeals for the Fifth Circuit in favor of the Government, and in the present case this court has granted the Government's petition for certiorari to review a decision of the Circuit Court of Appeals for the First Circuit in favor of the taxpayer.

Respectfully submitted,

FRANK S. BRIGHT,
Counsel for Respondent.

HAROLD C. HASKELL,
Of Counsel.